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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,465	03/10/2004	Keith E. Metcalf	KIM0502-03	4278
832	7590	05/06/2008		
BAKER & DANIELS LLP 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			EXAMINER KATCHEVES, BASIL S	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 05/06/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,465

**Applicant(s)**

METCALF ET AL.

**Examiner**

BASIL KATCHEVES

**Art Unit**

3635

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 40, 42-48, 56 and 58-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40, 42-48, 56 and 58-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The applicant has added new claims 67-69 in the amendment dated 11/29/07.  
Pending claims 40,42-48,56,58-69 are examined below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 40, 42-48, 56 and 58-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,277,005 to Hellwig et al. in view of U.S. Patent No. 5,038,539 to Kelley et al.**

Regarding claims 40, 56, 61, 62, 65 and 66, Hellwig discloses a partition system having vertical sides and a framework (figs. 2 & 4). Hellwig also discloses a tile (fig. 6: 4) mounted within tile retaining channels (fig. 6: see tile clip within retaining channel created by bend of clip. Fig 6 shows the lower structure with the downward facing channels and the upper structure with the upward facing channels since the two structures are not fully shown) of a pair of track members (fig. 6: see member which includes the retaining member, fig. 6: shows upper and lower rails). Hellwig also

discloses the tiles as held to the framework by sliding (fig. 6: see sliding movement of 56 relative to 66). However, Hellwig does not disclose the tile as having a storage area extending into the frame with a portable storage component within the storage area of the tile. Kelley discloses a tile having a storage area with a portable storage component located within (figs. 14, 17- 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hellwig by using the storage tile of Kelley, in order to create a storage space within the partition to aid in the storage of office equipment.

Regarding claims 42, 58, Kelley discloses the portable storage component as having a compartment and being vertically oriented.

Regarding claims 43, 63, Hellwig in view of Kelley discloses the use of portable storage tiles, except for multiple tiles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use multiple tiles, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8. The orientation of side by side or top and bottom would be an obvious design choice.

Regarding claim 44, Hellwig in view of Kelley discloses the storage bin as movable from closed to open and a portion of the bin is disposed outwardly (fig. 17-19, outward openings).

Regarding claim 45, Hellwig in view of Kelley discloses the bin within the tile, but does not disclose the particulars of this arrangement. There exists an inherent mounting relation between the two, or else the bin would fall out of the tile. It would be

obvious for the two components to have mounting structures engagable with each other in order to prevent the bin from falling out of the tile.

Regarding claim 46, Hellwig in view of Kelley does not particularly disclose the use of hooks and slots for the bin mounting. However, Kelley discloses the use of hooks and slots for mounting components of the partition system together (fig. 5: 118b). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use hooks and slots for securing the bin to the tile since the use of hooks and slots are utilized throughout the construction of the partition of Kelley, and would be obvious to apply this method of mounting to other areas of the structure.

Regarding claims 47, 59, Hellwig in view of Kelley discloses the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 48, Hellwig in view of Kelley discloses the bin as substantially within the storage area.

Regarding claim 60, Hellwig discloses the track (fig. 6) that has a channel which opens outwardly with respect to the frame (fig. 6: see top portion of the track which receives the upper portion inside an area which is outwardly disposed).

Regarding claim 63, Hellwig in view of Kelley discloses the bin as sliding in and out of the tile (figs. 18, 19).

**Claims 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,277,005 to Hellwig et al. in view of U.S. Patent No. 5,038,539 to Kelley et al. further in view of U.S. Patent No. 6,112,472 to van Dyk et al.**

Regarding claims 67-69, Hellwig in view of Kelley discloses the use of inwardly facing tracks for securing tiles to the partition frame work as recited in the above rejections of claims 40, 56 and 61, but they do not disclose the tracks as being separate from the framework. Van Dyk discloses a partition system that has a framework and tiles (fig. 10) and teaches inward channels which secure tiles as being separate from the frame (fig. 16: 109 & fig. 25: 124 as seen separated and not numbered in figure 26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hellwig in view of Kelley by using the separate tracks framework system as disclosed by Van Dyk in order to create a more modular framework and also to increase the strength of the framework itself.

### ***Response to Arguments***

Applicant's arguments filed 11/29/07 have been fully considered but they are not persuasive. The applicant makes remarks regarding the newly amended claims. These claims are addressed in the new rejection above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635